

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY JAMES PORTER,
Plaintiff,
v.
L. YANG, et al.,
Defendants.

No. 1:25-cv-00311 GSA (PC)

ORDER VACATING ORDER DIRECTING
PLAINTIFF TO FILE EITHER AN IN
FORMA PAUPERIS APPLICATION OR TO
PAY FILING FEE IN FULL

(See ECF No. 6)

ORDER DIRECTING PLAINTIFF SHOW
CAUSE WHY HE SHOULD NOT BE
REQUIRED TO PAY THE FILING FEE IN
FULL PRIOR TO PROCEEDING WITH THIS
ACTION

(See 28 U.S.C. § 1914(a), (c))

PLAINTIFF'S SHOWING OF CAUSE OR, IN
THE ALTERNATIVE, PAYMENT OF THE
FILING FEE IN FULL DUE IN FOURTEEN
DAYS

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 17, the Court ordered Plaintiff either to pay the filing fee in full or to file an application to proceed in forma pauperis. ECF No. 6. For the reasons stated below, the Court's order will be vacated, and instead Plaintiff will be ordered to show cause why he should not be

1 required to pay the filing fee in full. As an alternative to filing the showing of cause, Plaintiff
2 may pay the filing fee in full. Plaintiff will be given fourteen days to take either course of action.

3 I. RELEVANT FACTS

4 On March 17, 2025, the Court issued an order which directed Plaintiff either to submit an
5 application to proceed in forma pauperis or to pay the filing fee in full. ECF No. 6. Upon closer
6 review of the docket in this matter, it indicates that a copy of Plaintiff's six-month prison trust
7 fund account statement was docketed along with his complaint. See ECF No. 2. The trust
8 account statement indicates that as of March 6, 2025, Plaintiff had \$3066.27 in it. See ECF No. 2
9 at 3 (trust account statement).

10 II. DISCUSSION

11 A. Applicable Law

12 In order to commence an action, Plaintiff must file a complaint as required by Rule 3 of
13 the Federal Rules of Civil Procedure and must either pay both the \$350.00 filing fee and the
14 \$52.00 administrative fee for a civil action or, file an application requesting leave to proceed in
15 forma pauperis. See 28 U.S.C. §§ 1914(a), 1915(a). The Court may authorize the
16 commencement of an action "without prepayment of fees and costs or security therefor, by a
17 person who submits an affidavit . . . that [he] is unable to pay such fee or give security therefor."
18 28 U.S.C. § 1915(a).

19 B. Analysis

20 The Court finds that the \$3066.27 amount in Plaintiff's trust account establishes that
21 Plaintiff is able to pay the \$402.00 filing fee and costs. Thus, Plaintiff has made an inadequate
22 showing of indigency. See Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995); Alexander v.
23 Carson Adult High Sch., 9 F.3d 1448, 1449 (9th Cir. 1993). Consequently, the Court's order
24 which directed Plaintiff either to pay the filing fee in full or to file an application to proceed in
25 forma pauperis (ECF No. 6) will be vacated. Instead, Plaintiff will be ordered to show cause why
26 he should not be required to pay the \$402.00 filing fee in full prior to proceeding with this action.
27 As an alternative to filing the showing of cause, Plaintiff may pay the filing fee in full. Plaintiff
28 will be given fourteen days to take either course of action.

Accordingly, IT IS HEREBY ORDERED that:

1. The Court's March 17, 2025, order which directed Plaintiff either to submit an in forma pauperis application or to pay the filing fee in full (see ECF No. 6), is VACATED;
2. Plaintiff is ordered to SHOW CAUSE why he should not be required to pay the filing fee in full prior to proceeding any further with this action;
3. As an ALTERNATIVE to filing the showing of cause, Plaintiff may pay the filing fee in full. See 28 U.S.C. § 1914(a)-(c), and
4. Plaintiff shall have fourteen days to take either course of action.

Plaintiff is cautioned that failure to respond to this order within the time allotted may result in a recommendation that this action be dismissed.

IT IS SO ORDERED.

Dated: March 18, 2025

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE